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**Report of the Special Committee on the Charter of the
United Nations and on the Strengthening of the Role
of the Organization**

Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions

Report of the Secretary-General

Summary

The present report is submitted in compliance with paragraph 16 of General Assembly resolution 67/96. It highlights arrangements in the Secretariat related to assistance to third States affected by the application of sanctions; the operational changes that have occurred in the light of the shift in focus in the Security Council and its sanctions committees towards targeted sanctions; and recent developments concerning the activities of the Assembly and the Economic and Social Council in the area of assistance to third States affected by the application of sanctions.

* A/68/150.



I. Introduction

1. In its resolution 67/96, the General Assembly requested the Secretary-General to submit a report to the Assembly at its sixty-eighth session on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions. The present report has been prepared in compliance with that request.

II. Measures for further improvement of the procedures and working methods of the Security Council and its sanctions committees related to assistance to third States affected by the application of sanctions

2. As noted in previous reports of the Secretary-General (A/62/206 and Corr.1, A/63/224, A/64/225, A/65/217, A/66/213 and A/67/190), the Chair of the Security Council Informal Working Group on General Issues of Sanctions transmitted the report of the Working Group (S/2006/997, annex) to the Security Council. Several of the recommendations and best practices set out in that report related to improved sanctions design and monitoring, but the report did not contain any recommendations that explicitly referred to ways to assist third States affected by the unintended impact of sanctions. By its resolution 1732 (2006), the Council decided that the Working Group had fulfilled its mandate as contained in document S/2005/841, took note with interest of the best practices and methods set out in the report of the Working Group and requested its subsidiary bodies to take note of them also.

3. During the period under review, and in keeping with the shift of the Security Council from comprehensive economic sanctions to targeted sanctions, there were no pre-assessment reports or ongoing assessment reports concerning the likely or actual unintended impact of sanctions on third States.

4. In nearly every case in which the Security Council has decided that States shall freeze the assets owned or controlled by designated individuals and entities, the Council has also adopted exceptions by which States can signal to the relevant sanctions committee their intention to authorize access to frozen funds for a variety of basic and extraordinary expenses.¹ Such expenses can include tax payments, insurance premiums and public utility charges; reasonable professional fees and reimbursement of expenses associated with the provision of legal services; and fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen funds, other financial assets and economic resources.

5. Furthermore, in paragraph 15 of its resolution 1737 (2006), and paragraph 21 of its resolution 1970 (2011), the Security Council decided that the assets freeze imposed under those resolutions would not prevent a designated person or entity from making payment due under a contract entered into prior to the listing of such a person or entity, provided that certain conditions had been met, and after notification by the relevant States to, respectively, the Committee established

¹ See Security Council resolutions 1452 (2002) (as amended by resolution 1735 (2006)), 1532 (2004), 1572 (2004), 1591 (2005), 1596 (2005), 1636 (2005), 1718 (2006), 1737 (2006), 1844 (2008), 1907 (2009) and 1970 (2011) (as updated by resolution 2009 (2011)).

pursuant to resolution 1737 (2006) and the Committee established pursuant to resolution 1970 (2011) of the intention to make or receive such payments or to authorize, where appropriate, the unfreezing of funds, other financial assets or economic resources for that purpose, 10 working days prior to such authorization.

6. To date, through his 90-day reports to the Security Council, the Chair of the Committee established pursuant to resolution 1737 (2006) has informed the Council of a total of 59 such notifications received.² Similarly, in periodic reports to the Council, the Chair of the Committee established pursuant to resolution 1970 (2011) informed the Council of a total of 45 notifications received.³

7. In addition, in paragraph 17 of resolution 1803 (2008), paragraph 27 of resolution 1973 (2011) and paragraph 13 of resolution 2087 (2013), the Council aimed to ensure that persons or entities, including in third States, are not held responsible for failure to comply with a contractual or other obligation when such failure is due to measures imposed by Council resolutions. In a periodic report to the Council, the Chair of the Committee established pursuant to resolution 1970 (2011) stated that the Committee had responded to four requests for guidance from Member States;⁴ of these, one related to the scope and application of paragraph 27 of resolution 1973 (2011).

8. Lastly, in paragraph 21 of resolution 1874 (2009), the Security Council emphasized that all Member States should comply with the relevant measures relating to the Democratic People's Republic of Korea without prejudice to the activities of the diplomatic missions in the Democratic People's Republic of Korea, pursuant to the Vienna Convention on Diplomatic Relations. In the reporting period, by a note verbale dated 4 October 2012 addressed to States with diplomatic representation in Pyongyang, the Security Council Committee established pursuant to resolution 1718 (2006) reiterated that provision and requested the States concerned to provide information on whether such representation had experienced difficulties regarding international financial transactions, the importation of foreign goods or obtaining services from abroad as a result of the implementation of resolutions 1718 (2006) and 1874 (2009), and to indicate, if known, whether their diplomatic activities in the Democratic People's Republic of Korea had been, or were being, impeded owing to the actions of specific institutions or companies in third countries resulting from the implementation of the above-mentioned resolutions. The Committee received 16 replies.

² See S/PV.5702, S/PV.5743, S/PV.5807, S/PV.5853, S/PV.5909, S/PV.5973, S/PV.6142, S/PV.6235, S/PV.6280, S/PV.6384, S/PV.6442, S/PV.6502, S/PV.6563, S/PV.6607, S/PV.6697, S/PV.6737, S/PV.6786 and S/PV.6888. The 90-day report of 9 September 2009, which is also relevant, was not delivered at a public meeting; the text is however available on the Committee's website: www.un.org/sc/committees/1737.

³ See S/PV.6566, S/PV.6622, S/PV.6698, S/PV.6857, S/PV.6934 and S/PV.6931. The periodic report of 8 November 2012 was not delivered in its entirety at the public meeting; the full text is however available on the Committee's website: http://www.un.org/sc/committees/1970/reports_to_sc.shtml.

⁴ See S/PV.6934.

III. Recent developments related to the role of the General Assembly and the Economic and Social Council in the area of assistance to third States affected by the application of sanctions

9. In its resolution 59/45, the General Assembly reaffirmed the important roles of the General Assembly and the Economic and Social Council in the area of assistance to third States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council. Should consultations be requested by those States, the Assembly and the Council will mobilize and monitor, as appropriate, the economic assistance efforts of the international community and the United Nations system on behalf of third States affected by sanctions.

A. General Assembly

10. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization met from 19 to 27 February 2013. The report of the Special Committee contains a summary of the discussions on the question of the implementation of the Charter provisions related to assistance to third States affected by sanctions (see A/68/33, chap. II.A).

B. Economic and Social Council

11. At the opening meeting of its substantive session of 2013, on 1 July 2013, the Economic and Social Council approved its programme of work (E/2013/1) and decided to include in the agenda of the general segment of the session a sub-item, 13 (j), entitled "Assistance to third States affected by the application of sanctions". No advance documentation was requested. The Council considered the matter on 24 July 2013 but took no action under that sub-item.

IV. Arrangements in the Secretariat related to assistance to third States affected by the application of sanctions

12. In accordance with the relevant resolutions of the General Assembly,⁵ the competent units within the Secretariat have maintained their capacity to monitor information pertaining to any special economic problems in third States arising from the application of preventive or enforcement measures imposed by the Security Council, to evaluate any appeals to the Security Council made by such affected third States under the provisions of Article 50 of the Charter of the United Nations, and to identify solutions to the special economic problems of those States.

13. As noted in previous reports,⁶ the need to explore practical and effective measures of assistance to the affected third States has been reduced considerably

⁵ See resolutions 50/51, 51/208, 52/162, 53/107, 54/107, 55/157, 56/87, 57/25, 58/80, 59/45, 60/23, 61/38, 62/69, 63/127, 64/115, 65/31, 66/101 and 67/96.

⁶ See A/62/206 and Corr.1, A/63/224, A/64/225, A/65/217, A/66/213 and A/67/190.

because the shift from comprehensive to targeted sanctions has led to significant reductions in unintended adverse impacts on non-targeted countries. In fact, no official appeals by third States have been conveyed to the Department of Economic and Social Affairs to monitor or evaluate unintended adverse impacts on non-targeted countries since June 2003.

14. The shift to targeted sanctions has implied that changes need to be introduced to the methodological approaches used to assess the economic problems of third States caused by this type of sanctions. These changes involve detailed case-by-case assessments of targeted sanctions and the possible adverse impact on individual countries that were not targeted. These impacts would need to be evaluated against a baseline drawn from recent historical trends in economic and social conditions in the country or region. Some of the technical methods used to review and assess special economic problems of third States affected by sanctions were discussed in detail in the report of the Informal Working Group of the Security Council on General Issues of Sanctions (S/2006/997, annex), the Sanctions Assessment Handbook⁷ and the Field Guidelines for Assessing the Humanitarian Implications of Sanctions⁸ published by the Inter-Agency Standing Committee.

15. In the absence of Article 50 appeals conveyed to the Department of Economic and Social Affairs, little progress could be made in developing specific methodologies to make such assessments, since these can be elaborated properly only on a case-by-case basis, and assessments can be initiated only following corresponding requests by third States. The Department will, however, continue to seek opportunities for collaborative work with other relevant parts of the Secretariat and with other international organizations and academic institutions to keep abreast with similar and related methodologies in order to be responsive when appeals are made.

⁷ Available from <http://www.humanitarianinfo.org/iasc/downloadaddoc.aspx?docID=4423&type=pdf>.

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